

661—156.10 (81GA, HF619) Expungement of DNA samples.

156.10(1) A person whose DNA record has been included in the database may request expungement of the DNA record from the database based upon the reversal on appeal or dismissal of the case of the person's conviction, adjudication, or civil commitment that caused the submission of the DNA sample. The request shall be in writing and shall include a certified copy of the final court order reversing the conviction, adjudication, or civil commitment; a certified copy of the dismissal; and any other information necessary to ascertain the validity of the request. The request shall clearly state that it is a request to expunge a record from the DNA database and shall state the specific basis for the request.

A request to expunge the DNA record shall be addressed as follows:

Administrator

Iowa DCI Criminalistics Laboratory

2240 S. Ankeny Boulevard

Ankeny, Iowa 50023-9093

156.10(2) Action on expungement request.

a. The division, upon receipt of a written request that validates reversal on appeal of a person's conviction, adjudication, or commitment, and subsequent dismissal of the case, or upon receipt of a written request by a person who voluntarily submitted a DNA sample pursuant to 2005 Iowa Acts, House File 619, section 3, subsection 3, paragraph "b," shall expunge all of the DNA records and identifiable information of the person in the database. The person or the person's representative shall be notified upon completion of such action.

b. If the division determines that the person is otherwise obligated to submit a DNA sample, the DNA record shall not be expunged.

c. If the division denies an expungement request, the division shall notify the person requesting the expungement of the decision not to expunge the DNA record and the reason supporting the decision. A person whose request to expunge a DNA record from the database is denied may appeal that decision to the commissioner within 30 days of the date of the letter communicating the denial. Appeals shall be treated as requests for contested case proceedings, and such proceedings shall be subject to the provisions of rules 661—10.301(17A) through 661—10.332(17A), except that such requests shall be addressed as follows:

Commissioner, Iowa Department of Public Safety

State Public Safety Headquarters Building

215 East 7th Street

Des Moines, Iowa 50319

156.10(3) A DNA record shall not be expunged pursuant to this rule if expungement or destruction of the DNA record would destroy evidence related to another person.

[Editorial change: IAC Supplement 6/17/09]